

BERLIN TOWNSHIP TRUSTEES

8:45 a.m.

Special Meeting

December 11, 2008

HELD AT: Berlin Township House, 3271 Cheshire Rd., Delaware, OH

CALL TO ORDER: Phil Panzarella, Trustee Chairman

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Chris Rinehart.

ROLL CALL: Phil Panzarella and Tom D'Amico. Ron Bullard, absent. In the absence of Fiscal Officer Theresa Cannon, Judy Shumway was named to record the proceedings.

ATTENDANCE: Chris Rinehart, Rinehart & Rishel, Ltd; and Ray Armstrong.

PUBLIC COMMENT:

Rinehart said he was present to represent and assist the township trustees in preparation of legal basis documents objecting to Dominion Homes, Inc. annexation petitions for 11.372 +/- acres, 2.045 +/- and, .412 +/- acres into the City of Delaware. Location of the properties is on Cheshire Road (CR 72) west of the Norfolk Southern Railroad to the city limits of Delaware, Ohio. Said objection petitions to be filed with the Delaware County Commissioners.

Rinehart presented three sample resolutions objecting to Dominion Homes, Inc. annexation petitions for trustees' consideration. Panzarella questioned no reference or implication to road right-of-way. Rinehart said property owners own to the center of the road and this constitutes an implied easement to the center of Cheshire Road (CR 72) consequently no consent of property owners was obtained.

D'Amico questioned the resolution, referencing .412 +/- acres, not referencing creation of an unincorporated area of the township completely surrounded by the City of Delaware. Rinehart said the parcel was tiny and not connected to Cheshire Road.

RESOLUTION

08-12-17

**MOVE TO APPROVE THE FOLLOWING RESOLUTION
IN OBJECTION TO THE ANNEXATION PETITION
FILED BY DOMINION HOMES, INC. FOR 11.372 +/-
ACRES LOCATED ALONG CHESHIRE ROAD (CR 72)
WEST OF THE NORFOLK AND SOUTHERN RAILROAD
TO THE CITY LIMITS OF DELAWARE, OHIO**

WHEREAS, the Berlin Township Board of Trustees is the chief legislative body of Berlin Township;

WHEREAS, a one hundred percent owner petition for annexation, more commonly referred to as an Expedited "Type 2" annexation petition, has been filed by Dominion Homes, Inc., with the Delaware County Commissioners on November 21, 2008, pursuant to Section 709.023 of the Ohio Revised Code ("Petition for Annexation");

WHEREAS, the Petition for Annexation seeks to annex 11.372 +/- acres of land located along Cheshire Road from Berlin Township to the City of Delaware; and

WHEREAS, the Petition for Annexation was received by Berlin Township on November 24, 2008, and is incorporated herein by reference;

NOW, THEREFORE, the Berlin Township Board of Trustees, after reviewing the Petition for Annexation, objects to the annexation of said 11.372 +/- acres of land from Berlin Township to the City of Delaware based upon the apparent failure of the Petition for Annexation and its supporting resolutions adopted by the City of Delaware to comply with, at least, the following requirements set forth in Section 709.023(E) of the Ohio Revised Code:

BERLIN TOWNSHIP TRUSTEES

8:45 a.m.

Special Meeting

December 11, 2008

1. The Petition for Annexation, if granted, would result in the creation of an unincorporated area of the township that is completely surrounded by the City of Delaware (ORC Sec. 709.023(E)(5));
2. The City of Delaware cannot provide the services it has articulated it will provide to the territory to be annexed in City of Delaware Resolution No. 08-63 dated November 24, 2008 (ORC Sec. 709.023(E)(6)); and
3. The City of Delaware cannot assume maintenance responsibility for all of Cheshire Road as stated in City of Delaware Resolution No. 08-63 dated November 24, 2008 (ORC Sec. 709.023(E)(7)).

The Berlin Township Board of Trustees authorizes and appoints all of its Board members, on an individual basis, and its attorney, Christopher A. Rinehart, or his designee, of the law firm of Rinehart & Rishel, Ltd., to appear and speak on behalf of the Board of Trustees at any hearing conducted by the Delaware County Commissioners regarding the Petition for Annexation.

This resolution is effective immediately upon its passage.

BERLIN TOWNSHIP TRUSTEES

Phil Panzarella, Trustee

ATTEST:

Ron Bullard, Trustee

Theresa Cannon, Fiscal Officer

Tom D'Amico, Trustee

Motion: Panzarella
 Second: D'Amico
 Vote: Panzarella yea and D'Amico yea.

**RESOLUTION
 08-12-18**

**MOVE TO APPROVE THE FOLLOWING RESOLUTION
 IN OBJECTION TO THE ANNEXATION PETITION
 FILED BY DOMINION HOMES, INC. FOR 2.045 +/-
 ACRES LOCATED ALONG CHESHIRE ROAD (CR 72)
 WEST OF THE NORFOLK AND SOUTHERN RAILROAD
 TO THE CITY LIMITS OF DELAWARE, OHIO**

WHEREAS, the Berlin Township Board of Trustees is the chief legislative body of Berlin Township;

WHEREAS, a one hundred percent owner petition for annexation, more commonly referred to as an Expedited "Type 2" annexation petition, has been filed by Dominion Homes, Inc., with the Delaware County Commissioners on November 21, 2008, pursuant to Section 709.023 of the Ohio Revised Code ("Petition for Annexation");

BERLIN TOWNSHIP TRUSTEES

8:45 a.m.

Special Meeting

December 11, 2008

WHEREAS, the Petition for Annexation seeks to annex 2.045 +/- acres of land located along Cheshire Road from Berlin Township to the City of Delaware; and

WHEREAS, the Petition for Annexation was received by Berlin Township on November 24, 2008, and is incorporated herein by reference;

NOW, THEREFORE, the Berlin Township Board of Trustees, after reviewing the Petition for Annexation, objects to the annexation of said 2.045 +/- acres of land from Berlin Township to the City of Delaware based upon the apparent failure of the Petition for Annexation and/or any applicable resolutions adopted by the City of Delaware to comply with, at least, the following requirements set forth in Section 709.023(E) of the Ohio Revised Code:

1. The Petition for Annexation, if granted, would result in the creation of an unincorporated area of the township that is completely surrounded by the City of Delaware (ORC Sec. 709.023(E)(5));
2. The City of Delaware may not be able to provide the services it has articulated it will provide to the territory to be annexed in City of Delaware Resolution No. 08-63 dated November 24, 2008 (ORC Sec. 709.023(E)(6)); and
3. The City of Delaware may not be able to assume maintenance responsibility for all of Cheshire Road as stated in City of Delaware Resolution No. 08-63 dated November 24, 2008 (ORC Sec. 709.023(E)(7)).

The Berlin Township Board of Trustees authorizes and appoints all of its Board members, on an individual basis, and its attorney, Christopher A. Rinehart, or his designee, of the law firm of Rinehart & Rishel, Ltd., to appear and speak on behalf of the Board of Trustees at any hearing conducted by the Delaware County Commissioners regarding the Petition for Annexation.

This resolution is effective immediately upon its passage.

BERLIN TOWNSHIP TRUSTEES

Phil Panzarella, Trustee

Ron Bullard, Trustee

ATTEST:

Theresa Cannon, Fiscal Officer

Tom D'Amico, Trustee

Motion: Panzarella
Second: D'Amico
Vote: D'Amico yea and Panzarella yea.

**RESOLUTION
08-12-19**

**MOVE TO APPROVE THE FOLLOWING RESOLUTION
IN OBJECTION TO THE ANNEXATION PETITION
FILED BY DOMINION HOMES, INC. FOR .412 +/-
ACRES LOCATED ALONG CHESHIRE ROAD (CR 72)**

BERLIN TOWNSHIP TRUSTEES

8:45 a.m.

Special Meeting

December 11, 2008

**WEST OF THE NORFOLK AND SOUTHERN RAILROAD
TO THE CITY LIMITS OF DELAWARE, OHIO**

WHEREAS, the Berlin Township Board of Trustees is the chief legislative body of Berlin Township;

WHEREAS, a one hundred percent owner petition for annexation, more commonly referred to as an Expedited "Type 2" annexation petition, has been filed by Dominion Homes, Inc., with the Delaware County Commissioners on November 21, 2008, pursuant to Section 709.023 of the Ohio Revised Code ("Petition for Annexation");

WHEREAS, the Petition for Annexation seeks to annex .412 +/- acres of land located along Cheshire Road from Berlin Township to the City of Delaware; and

WHEREAS, the Petition for Annexation was received by Berlin Township on November 24, 2008, and is incorporated herein by reference;

NOW, THEREFORE, the Berlin Township Board of Trustees, after reviewing the Petition for Annexation, objects to the annexation of said .412 +/- acres of land from Berlin Township to the City of Delaware based upon the apparent failure of the Petition for Annexation and its supporting resolutions adopted by the City of Delaware to comply with, at least, the following requirements set forth in Section 709.023(E) of the Ohio Revised Code:

1. The City of Delaware cannot provide the services it has articulated it will provide to the territory to be annexed in City of Delaware Resolution No. 08-63 dated November 24, 2008 (ORC Sec. 709.023(E)(6)); and
2. The City of Delaware cannot assume maintenance responsibility for all of Cheshire Road as stated in City of Delaware Resolution No. 08-63 dated November 24, 2008 (ORC Sec. 709.023(E)(7)).

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This resolution is effective immediately upon its passage.

BERLIN TOWNSHIP TRUSTEES

Phil Panzarella, Trustee

Ron Bullard, Trustee

ATTEST:

Theresa Cannon, Fiscal Officer

Tom D'Amico, Trustee

Motion: Panzarella
Second: D'Amico

BERLIN TOWNSHIP TRUSTEES

8:45 a.m.

Special Meeting

December 11, 2008

Vote: D'Amico yea and Panzarella yea.

RESOLUTION

08-12-20

MOVE TO ADJOURN MEETING-9:03 A.M.

Motion: D'Amico

Second: Panzarella

Vote: Panzarella yea and D'Amico yea.

Meeting adjourned 9:03 a.m.

Phil Panzarella, trustee

ATTEST:

Ron Bullard, Trustee

Judy K. Shumway
Assistant to the Fiscal Officer

Tom D'Amico, Trustee